IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5147 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KALPESHKUMAR RAMANLAL PATEL

Versus

UNION OF INDIA

Appearance:

Mrs. Sangeeta Pahwa for Petitioner.

MR BN DOCTOR for Respondent No. 1 & 2.

Mr. Akil Qureshi for Respondent No. 3

CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE N.G.NANDI

Date of decision: 03/08/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Learned counsel for the petitioner has argued that by the impugned order the Central Administrative Tribunal has set aside the appointment of petitioner on the post of Post Master without giving any notice for the final hearing of the Original Application. She has submitted that the only notice which was served upon the petitioner was to show cause as to why the application should not be admitted. The said notice was for the date of 9th May 2000 and thereafter no notice of the admission of the Original Application or hearing on any date thereafter was served upon the petitioner. In such circumstances at the most the Original Application could be admitted, or it could also be dismissed at admission stage, but in case the Original Application was to be allowed against the petitioner, the notice after admission was necessary. Learned counsel has also produced before us a copy of the notice which was served upon the petitioner being O.A. No. 282 of 2000 for the date of 9th May 2000 and having perused the same, we find that the notice was as to why the application should not be admitted. Mr. B.N. Doctor and Mr. Akil Qureshi appearing for respondents No. 1 & 2 and 3 respectively do not dispute this factual position and no material has been produced before us either to show that any notice after admission or of any date therefrom was given or to show as to why notice of final hearing after admission was not given and it is clear that final order has been passed by the CAT against the petitioner without any notice to him with regard to admission of the application. The impugned order is therefore in clear breach of principles of natural justice.

2. In the facts and circumstances of this case, the matter has to be remanded back to the CAT for decision afresh in accordance with law and therefore the impugned order passed by the CAT in O.A. No. 282/2000 on 3rd of May 2001 is hereby set aside and the matter is remanded back to the CAT for decision afresh in accordance with law after hearing both the sides. It will be open for petitioner to file reply to O.A. before CAT if he so desires. It has also not been disputed before us that the petitioner is still holding the post and he was protected by the ad-interim order dated 11th of July 2001. Therefore, we further order that till the O.A. No. 282/2000 is heard and decided afresh on merits, the position as obtaining today shall continue. However, it is agreed by learned counsel for the petitioner that the petitioner shall appear before the CAT on 3rd of September 2001 and no further notice shall be necessary. The petitioner accepts the notice of admission of the Original Application before the CAT right before this

Court in these proceedings which will be sufficient notice of admission of Original Application. It will be the duty of the parties to produce a copy of this order before the Central Administrative Tribunal immediately and in any case before 3rd September 2001 and all the parties shall remain present before the CAT on 3.9.2001. This Special Civil Application is allowed. Rule is made absolute.

[M.R. Calla, J.]

rmr. [N.G. Nandi, J.]